

**SB0670**



**99TH GENERAL ASSEMBLY**

**State of Illinois**

**2015 and 2016**

**SB0670**

Introduced 2/3/2015, by Sen. Michael Connelly

**SYNOPSIS AS INTRODUCED:**

5 ILCS 315/3

from Ch. 48, par. 1603

Amends Illinois Public Labor Relations Act. Provides that a secretary, assistant, or one of like position to a person who formulates, determines, and effectuates labor relations policy is presumed to be a "confidential employee". Provides that the following is considered to be a person who formulates, determines, and effectuates labor relations policy under the Act: (i) the mayor, village president, county board president, county board chairman, or other chief executive officer of a unit of local government, and (ii) any village or city manager or village or city administrator, or anyone in a like position in any unit of local government. Limits the provisions of the amendatory Act to a county with a population of more than 500,000 and municipalities that lie in whole or in part within such a county. Effective immediately.

LRB099 07206 JLK 27300 b

**A BILL FOR**

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Public Labor Relations Act is  
5 amended by changing Section 3 as follows:

6 (5 ILCS 315/3) (from Ch. 48, par. 1603)

7 Sec. 3. Definitions. As used in this Act, unless the  
8 context otherwise requires:

9 (a) "Board" means the Illinois Labor Relations Board or,  
10 with respect to a matter over which the jurisdiction of the  
11 Board is assigned to the State Panel or the Local Panel under  
12 Section 5, the panel having jurisdiction over the matter.

13 (b) "Collective bargaining" means bargaining over terms  
14 and conditions of employment, including hours, wages, and other  
15 conditions of employment, as detailed in Section 7 and which  
16 are not excluded by Section 4.

17 (c) "Confidential employee" means an employee who, in the  
18 regular course of his or her duties, assists and acts in a  
19 confidential capacity to persons who formulate, determine, and  
20 effectuate management policies with regard to labor relations  
21 or who, in the regular course of his or her duties, has  
22 authorized access to information relating to the effectuation  
23 or review of the employer's collective bargaining policies.

1       (c-5) In addition to the provisions set forth in subsection  
2       (c) of this Section, a secretary, assistant, or one of like  
3       position to a person who formulates, determines, and  
4       effectuates labor relations policy is presumed to be a  
5       "confidential employee". The following is considered to be a  
6       person who formulates, determines, and effectuates labor  
7       relations policy under the Act: (i) the mayor, village  
8       president, county board president, county board chairman, or  
9       other chief executive officer of a unit of local government,  
10       and (ii) any village or city manager or village or city  
11       administrator, or anyone in a like position in any unit of  
12       local government.

13       The provisions of this subsection (c-5) apply only to a  
14       county with a population of more than 500,000 and  
15       municipalities that lie in whole or in part within such a  
16       county. Nothing in this subsection (c-5) shall affect the  
17       employee status of individuals who were covered by a collective  
18       bargaining agreement on the effective date of this amendatory  
19       Act of the 99th General Assembly.

20       (d) "Craft employees" means skilled journeymen, crafts  
21       persons, and their apprentices and helpers.

22       (e) "Essential services employees" means those public  
23       employees performing functions so essential that the  
24       interruption or termination of the function will constitute a  
25       clear and present danger to the health and safety of the  
26       persons in the affected community.

1 (f) "Exclusive representative", except with respect to  
2 non-State fire fighters and paramedics employed by fire  
3 departments and fire protection districts, non-State peace  
4 officers, and peace officers in the Department of State Police,  
5 means the labor organization that has been (i) designated by  
6 the Board as the representative of a majority of public  
7 employees in an appropriate bargaining unit in accordance with  
8 the procedures contained in this Act, (ii) historically  
9 recognized by the State of Illinois or any political  
10 subdivision of the State before July 1, 1984 (the effective  
11 date of this Act) as the exclusive representative of the  
12 employees in an appropriate bargaining unit, (iii) after July  
13 1, 1984 (the effective date of this Act) recognized by an  
14 employer upon evidence, acceptable to the Board, that the labor  
15 organization has been designated as the exclusive  
16 representative by a majority of the employees in an appropriate  
17 bargaining unit; (iv) recognized as the exclusive  
18 representative of personal assistants under Executive Order  
19 2003-8 prior to the effective date of this amendatory Act of  
20 the 93rd General Assembly, and the organization shall be  
21 considered to be the exclusive representative of the personal  
22 assistants as defined in this Section; or (v) recognized as the  
23 exclusive representative of child and day care home providers,  
24 including licensed and license exempt providers, pursuant to an  
25 election held under Executive Order 2005-1 prior to the  
26 effective date of this amendatory Act of the 94th General

1 Assembly, and the organization shall be considered to be the  
2 exclusive representative of the child and day care home  
3 providers as defined in this Section.

4 With respect to non-State fire fighters and paramedics  
5 employed by fire departments and fire protection districts,  
6 non-State peace officers, and peace officers in the Department  
7 of State Police, "exclusive representative" means the labor  
8 organization that has been (i) designated by the Board as the  
9 representative of a majority of peace officers or fire fighters  
10 in an appropriate bargaining unit in accordance with the  
11 procedures contained in this Act, (ii) historically recognized  
12 by the State of Illinois or any political subdivision of the  
13 State before January 1, 1986 (the effective date of this  
14 amendatory Act of 1985) as the exclusive representative by a  
15 majority of the peace officers or fire fighters in an  
16 appropriate bargaining unit, or (iii) after January 1, 1986  
17 (the effective date of this amendatory Act of 1985) recognized  
18 by an employer upon evidence, acceptable to the Board, that the  
19 labor organization has been designated as the exclusive  
20 representative by a majority of the peace officers or fire  
21 fighters in an appropriate bargaining unit.

22 Where a historical pattern of representation exists for the  
23 workers of a water system that was owned by a public utility,  
24 as defined in Section 3-105 of the Public Utilities Act, prior  
25 to becoming certified employees of a municipality or  
26 municipalities once the municipality or municipalities have

1 acquired the water system as authorized in Section 11-124-5 of  
2 the Illinois Municipal Code, the Board shall find the labor  
3 organization that has historically represented the workers to  
4 be the exclusive representative under this Act, and shall find  
5 the unit represented by the exclusive representative to be the  
6 appropriate unit.

7 (g) "Fair share agreement" means an agreement between the  
8 employer and an employee organization under which all or any of  
9 the employees in a collective bargaining unit are required to  
10 pay their proportionate share of the costs of the collective  
11 bargaining process, contract administration, and pursuing  
12 matters affecting wages, hours, and other conditions of  
13 employment, but not to exceed the amount of dues uniformly  
14 required of members. The amount certified by the exclusive  
15 representative shall not include any fees for contributions  
16 related to the election or support of any candidate for  
17 political office. Nothing in this subsection (g) shall preclude  
18 an employee from making voluntary political contributions in  
19 conjunction with his or her fair share payment.

20 (g-1) "Fire fighter" means, for the purposes of this Act  
21 only, any person who has been or is hereafter appointed to a  
22 fire department or fire protection district or employed by a  
23 state university and sworn or commissioned to perform fire  
24 fighter duties or paramedic duties, except that the following  
25 persons are not included: part-time fire fighters, auxiliary,  
26 reserve or voluntary fire fighters, including paid on-call fire

1 fighters, clerks and dispatchers or other civilian employees of  
2 a fire department or fire protection district who are not  
3 routinely expected to perform fire fighter duties, or elected  
4 officials.

5 (g-2) "General Assembly of the State of Illinois" means the  
6 legislative branch of the government of the State of Illinois,  
7 as provided for under Article IV of the Constitution of the  
8 State of Illinois, and includes but is not limited to the House  
9 of Representatives, the Senate, the Speaker of the House of  
10 Representatives, the Minority Leader of the House of  
11 Representatives, the President of the Senate, the Minority  
12 Leader of the Senate, the Joint Committee on Legislative  
13 Support Services and any legislative support services agency  
14 listed in the Legislative Commission Reorganization Act of  
15 1984.

16 (h) "Governing body" means, in the case of the State, the  
17 State Panel of the Illinois Labor Relations Board, the Director  
18 of the Department of Central Management Services, and the  
19 Director of the Department of Labor; the county board in the  
20 case of a county; the corporate authorities in the case of a  
21 municipality; and the appropriate body authorized to provide  
22 for expenditures of its funds in the case of any other unit of  
23 government.

24 (i) "Labor organization" means any organization in which  
25 public employees participate and that exists for the purpose,  
26 in whole or in part, of dealing with a public employer

1 concerning wages, hours, and other terms and conditions of  
2 employment, including the settlement of grievances.

3 (i-5) "Legislative liaison" means a person who is an  
4 employee of a State agency, the Attorney General, the Secretary  
5 of State, the Comptroller, or the Treasurer, as the case may  
6 be, and whose job duties require the person to regularly  
7 communicate in the course of his or her employment with any  
8 official or staff of the General Assembly of the State of  
9 Illinois for the purpose of influencing any legislative action.

10 (j) "Managerial employee" means an individual who is  
11 engaged predominantly in executive and management functions  
12 and is charged with the responsibility of directing the  
13 effectuation of management policies and practices. With  
14 respect only to State employees in positions under the  
15 jurisdiction of the Attorney General, Secretary of State,  
16 Comptroller, or Treasurer (i) that were certified in a  
17 bargaining unit on or after December 2, 2008, (ii) for which a  
18 petition is filed with the Illinois Public Labor Relations  
19 Board on or after April 5, 2013 (the effective date of Public  
20 Act 97-1172), or (iii) for which a petition is pending before  
21 the Illinois Public Labor Relations Board on that date,  
22 "managerial employee" means an individual who is engaged in  
23 executive and management functions or who is charged with the  
24 effectuation of management policies and practices or who  
25 represents management interests by taking or recommending  
26 discretionary actions that effectively control or implement

1 policy. Nothing in this definition prohibits an individual from  
2 also meeting the definition of "supervisor" under subsection  
3 (r) of this Section.

4 (k) "Peace officer" means, for the purposes of this Act  
5 only, any persons who have been or are hereafter appointed to a  
6 police force, department, or agency and sworn or commissioned  
7 to perform police duties, except that the following persons are  
8 not included: part-time police officers, special police  
9 officers, auxiliary police as defined by Section 3.1-30-20 of  
10 the Illinois Municipal Code, night watchmen, "merchant  
11 police", court security officers as defined by Section 3-6012.1  
12 of the Counties Code, temporary employees, traffic guards or  
13 wardens, civilian parking meter and parking facilities  
14 personnel or other individuals specially appointed to aid or  
15 direct traffic at or near schools or public functions or to aid  
16 in civil defense or disaster, parking enforcement employees who  
17 are not commissioned as peace officers and who are not armed  
18 and who are not routinely expected to effect arrests, parking  
19 lot attendants, clerks and dispatchers or other civilian  
20 employees of a police department who are not routinely expected  
21 to effect arrests, or elected officials.

22 (l) "Person" includes one or more individuals, labor  
23 organizations, public employees, associations, corporations,  
24 legal representatives, trustees, trustees in bankruptcy,  
25 receivers, or the State of Illinois or any political  
26 subdivision of the State or governing body, but does not

1 include the General Assembly of the State of Illinois or any  
2 individual employed by the General Assembly of the State of  
3 Illinois.

4 (m) "Professional employee" means any employee engaged in  
5 work predominantly intellectual and varied in character rather  
6 than routine mental, manual, mechanical or physical work;  
7 involving the consistent exercise of discretion and adjustment  
8 in its performance; of such a character that the output  
9 produced or the result accomplished cannot be standardized in  
10 relation to a given period of time; and requiring advanced  
11 knowledge in a field of science or learning customarily  
12 acquired by a prolonged course of specialized intellectual  
13 instruction and study in an institution of higher learning or a  
14 hospital, as distinguished from a general academic education or  
15 from apprenticeship or from training in the performance of  
16 routine mental, manual, or physical processes; or any employee  
17 who has completed the courses of specialized intellectual  
18 instruction and study prescribed in this subsection (m) and is  
19 performing related work under the supervision of a professional  
20 person to qualify to become a professional employee as defined  
21 in this subsection (m).

22 (n) "Public employee" or "employee", for the purposes of  
23 this Act, means any individual employed by a public employer,  
24 including (i) interns and residents at public hospitals, (ii)  
25 as of the effective date of this amendatory Act of the 93rd  
26 General Assembly, but not before, personal assistants working

1 under the Home Services Program under Section 3 of the Disabled  
2 Persons Rehabilitation Act, subject to the limitations set  
3 forth in this Act and in the Disabled Persons Rehabilitation  
4 Act, (iii) as of the effective date of this amendatory Act of  
5 the 94th General Assembly, but not before, child and day care  
6 home providers participating in the child care assistance  
7 program under Section 9A-11 of the Illinois Public Aid Code,  
8 subject to the limitations set forth in this Act and in Section  
9 9A-11 of the Illinois Public Aid Code, (iv) as of January 29,  
10 2013 (the effective date of Public Act 97-1158), but not before  
11 except as otherwise provided in this subsection (n), home care  
12 and home health workers who function as personal assistants and  
13 individual maintenance home health workers and who also work  
14 under the Home Services Program under Section 3 of the Disabled  
15 Persons Rehabilitation Act, no matter whether the State  
16 provides those services through direct fee-for-service  
17 arrangements, with the assistance of a managed care  
18 organization or other intermediary, or otherwise, (v)  
19 beginning on the effective date of this amendatory Act of the  
20 98th General Assembly and notwithstanding any other provision  
21 of this Act, any person employed by a public employer and who  
22 is classified as or who holds the employment title of Chief  
23 Stationary Engineer, Assistant Chief Stationary Engineer,  
24 Sewage Plant Operator, Water Plant Operator, Stationary  
25 Engineer, Plant Operating Engineer, and any other employee who  
26 holds the position of: Civil Engineer V, Civil Engineer VI,

1 Civil Engineer VII, Technical Manager I, Technical Manager II,  
2 Technical Manager III, Technical Manager IV, Technical Manager  
3 V, Technical Manager VI, Realty Specialist III, Realty  
4 Specialist IV, Realty Specialist V, Technical Advisor I,  
5 Technical Advisor II, Technical Advisor III, Technical Advisor  
6 IV, or Technical Advisor V employed by the Department of  
7 Transportation who is in a position which is certified in a  
8 bargaining unit on or before the effective date of this  
9 amendatory Act of the 98th General Assembly, and (vi) beginning  
10 on the effective date of this amendatory Act of the 98th  
11 General Assembly and notwithstanding any other provision of  
12 this Act, any mental health administrator in the Department of  
13 Corrections who is classified as or who holds the position of  
14 Public Service Administrator (Option 8K), any employee of the  
15 Office of the Inspector General in the Department of Human  
16 Services who is classified as or who holds the position of  
17 Public Service Administrator (Option 7), any Deputy of  
18 Intelligence in the Department of Corrections who is classified  
19 as or who holds the position of Public Service Administrator  
20 (Option 7), and any employee of the Department of State Police  
21 who handles issues concerning the Illinois State Police Sex  
22 Offender Registry and who is classified as or holds the  
23 position of Public Service Administrator (Option 7), but  
24 excluding all of the following: employees of the General  
25 Assembly of the State of Illinois; elected officials; executive  
26 heads of a department; members of boards or commissions; the

1 Executive Inspectors General; any special Executive Inspectors  
2 General; employees of each Office of an Executive Inspector  
3 General; commissioners and employees of the Executive Ethics  
4 Commission; the Auditor General's Inspector General; employees  
5 of the Office of the Auditor General's Inspector General; the  
6 Legislative Inspector General; any special Legislative  
7 Inspectors General; employees of the Office of the Legislative  
8 Inspector General; commissioners and employees of the  
9 Legislative Ethics Commission; employees of any agency, board  
10 or commission created by this Act; employees appointed to State  
11 positions of a temporary or emergency nature; all employees of  
12 school districts and higher education institutions except  
13 firefighters and peace officers employed by a state university  
14 and except peace officers employed by a school district in its  
15 own police department in existence on the effective date of  
16 this amendatory Act of the 96th General Assembly; managerial  
17 employees; short-term employees; legislative liaisons; a  
18 person who is a State employee under the jurisdiction of the  
19 Office of the Attorney General who is licensed to practice law  
20 or whose position authorizes, either directly or indirectly,  
21 meaningful input into government decision-making on issues  
22 where there is room for principled disagreement on goals or  
23 their implementation; a person who is a State employee under  
24 the jurisdiction of the Office of the Comptroller who holds the  
25 position of Public Service Administrator or whose position is  
26 otherwise exempt under the Comptroller Merit Employment Code; a

1 person who is a State employee under the jurisdiction of the  
2 Secretary of State who holds the position classification of  
3 Executive I or higher, whose position authorizes, either  
4 directly or indirectly, meaningful input into government  
5 decision-making on issues where there is room for principled  
6 disagreement on goals or their implementation, or who is  
7 otherwise exempt under the Secretary of State Merit Employment  
8 Code; employees in the Office of the Secretary of State who are  
9 completely exempt from jurisdiction B of the Secretary of State  
10 Merit Employment Code and who are in Rutan-exempt positions on  
11 or after April 5, 2013 (the effective date of Public Act  
12 97-1172); a person who is a State employee under the  
13 jurisdiction of the Treasurer who holds a position that is  
14 exempt from the State Treasurer Employment Code; any employee  
15 of a State agency who (i) holds the title or position of, or  
16 exercises substantially similar duties as a legislative  
17 liaison, Agency General Counsel, Agency Chief of Staff, Agency  
18 Executive Director, Agency Deputy Director, Agency Chief  
19 Fiscal Officer, Agency Human Resources Director, Public  
20 Information Officer, or Chief Information Officer and (ii) was  
21 neither included in a bargaining unit nor subject to an active  
22 petition for certification in a bargaining unit; any employee  
23 of a State agency who (i) is in a position that is  
24 Rutan-exempt, as designated by the employer, and completely  
25 exempt from jurisdiction B of the Personnel Code and (ii) was  
26 neither included in a bargaining unit nor subject to an active

1 petition for certification in a bargaining unit; any term  
2 appointed employee of a State agency pursuant to Section 8b.18  
3 or 8b.19 of the Personnel Code who was neither included in a  
4 bargaining unit nor subject to an active petition for  
5 certification in a bargaining unit; any employment position  
6 properly designated pursuant to Section 6.1 of this Act;  
7 confidential employees; independent contractors; and  
8 supervisors except as provided in this Act.

9 Home care and home health workers who function as personal  
10 assistants and individual maintenance home health workers and  
11 who also work under the Home Services Program under Section 3  
12 of the Disabled Persons Rehabilitation Act shall not be  
13 considered public employees for any purposes not specifically  
14 provided for in Public Act 93-204 or Public Act 97-1158,  
15 including but not limited to, purposes of vicarious liability  
16 in tort and purposes of statutory retirement or health  
17 insurance benefits. Home care and home health workers who  
18 function as personal assistants and individual maintenance  
19 home health workers and who also work under the Home Services  
20 Program under Section 3 of the Disabled Persons Rehabilitation  
21 Act shall not be covered by the State Employees Group Insurance  
22 Act of 1971 (5 ILCS 375/).

23 Child and day care home providers shall not be considered  
24 public employees for any purposes not specifically provided for  
25 in this amendatory Act of the 94th General Assembly, including  
26 but not limited to, purposes of vicarious liability in tort and

1 purposes of statutory retirement or health insurance benefits.  
2 Child and day care home providers shall not be covered by the  
3 State Employees Group Insurance Act of 1971.

4 Notwithstanding Section 9, subsection (c), or any other  
5 provisions of this Act, all peace officers above the rank of  
6 captain in municipalities with more than 1,000,000 inhabitants  
7 shall be excluded from this Act.

8 (o) Except as otherwise in subsection (o-5), "public  
9 employer" or "employer" means the State of Illinois; any  
10 political subdivision of the State, unit of local government or  
11 school district; authorities including departments, divisions,  
12 bureaus, boards, commissions, or other agencies of the  
13 foregoing entities; and any person acting within the scope of  
14 his or her authority, express or implied, on behalf of those  
15 entities in dealing with its employees. As of the effective  
16 date of the amendatory Act of the 93rd General Assembly, but  
17 not before, the State of Illinois shall be considered the  
18 employer of the personal assistants working under the Home  
19 Services Program under Section 3 of the Disabled Persons  
20 Rehabilitation Act, subject to the limitations set forth in  
21 this Act and in the Disabled Persons Rehabilitation Act. As of  
22 January 29, 2013 (the effective date of Public Act 97-1158),  
23 but not before except as otherwise provided in this subsection  
24 (o), the State shall be considered the employer of home care  
25 and home health workers who function as personal assistants and  
26 individual maintenance home health workers and who also work

1 under the Home Services Program under Section 3 of the Disabled  
2 Persons Rehabilitation Act, no matter whether the State  
3 provides those services through direct fee-for-service  
4 arrangements, with the assistance of a managed care  
5 organization or other intermediary, or otherwise, but subject  
6 to the limitations set forth in this Act and the Disabled  
7 Persons Rehabilitation Act. The State shall not be considered  
8 to be the employer of home care and home health workers who  
9 function as personal assistants and individual maintenance  
10 home health workers and who also work under the Home Services  
11 Program under Section 3 of the Disabled Persons Rehabilitation  
12 Act, for any purposes not specifically provided for in Public  
13 Act 93-204 or Public Act 97-1158, including but not limited to,  
14 purposes of vicarious liability in tort and purposes of  
15 statutory retirement or health insurance benefits. Home care  
16 and home health workers who function as personal assistants and  
17 individual maintenance home health workers and who also work  
18 under the Home Services Program under Section 3 of the Disabled  
19 Persons Rehabilitation Act shall not be covered by the State  
20 Employees Group Insurance Act of 1971 (5 ILCS 375/). As of the  
21 effective date of this amendatory Act of the 94th General  
22 Assembly but not before, the State of Illinois shall be  
23 considered the employer of the day and child care home  
24 providers participating in the child care assistance program  
25 under Section 9A-11 of the Illinois Public Aid Code, subject to  
26 the limitations set forth in this Act and in Section 9A-11 of

1 the Illinois Public Aid Code. The State shall not be considered  
2 to be the employer of child and day care home providers for any  
3 purposes not specifically provided for in this amendatory Act  
4 of the 94th General Assembly, including but not limited to,  
5 purposes of vicarious liability in tort and purposes of  
6 statutory retirement or health insurance benefits. Child and  
7 day care home providers shall not be covered by the State  
8 Employees Group Insurance Act of 1971.

9 "Public employer" or "employer" as used in this Act,  
10 however, does not mean and shall not include the General  
11 Assembly of the State of Illinois, the Executive Ethics  
12 Commission, the Offices of the Executive Inspectors General,  
13 the Legislative Ethics Commission, the Office of the  
14 Legislative Inspector General, the Office of the Auditor  
15 General's Inspector General, the Office of the Governor, the  
16 Governor's Office of Management and Budget, the Illinois  
17 Finance Authority, the Office of the Lieutenant Governor, the  
18 State Board of Elections, and educational employers or  
19 employers as defined in the Illinois Educational Labor  
20 Relations Act, except with respect to a state university in its  
21 employment of firefighters and peace officers and except with  
22 respect to a school district in the employment of peace  
23 officers in its own police department in existence on the  
24 effective date of this amendatory Act of the 96th General  
25 Assembly. County boards and county sheriffs shall be designated  
26 as joint or co-employers of county peace officers appointed

1 under the authority of a county sheriff. Nothing in this  
2 subsection (o) shall be construed to prevent the State Panel or  
3 the Local Panel from determining that employers are joint or  
4 co-employers.

5 (o-5) With respect to wages, fringe benefits, hours,  
6 holidays, vacations, proficiency examinations, sick leave, and  
7 other conditions of employment, the public employer of public  
8 employees who are court reporters, as defined in the Court  
9 Reporters Act, shall be determined as follows:

10 (1) For court reporters employed by the Cook County  
11 Judicial Circuit, the chief judge of the Cook County  
12 Circuit Court is the public employer and employer  
13 representative.

14 (2) For court reporters employed by the 12th, 18th,  
15 19th, and, on and after December 4, 2006, the 22nd judicial  
16 circuits, a group consisting of the chief judges of those  
17 circuits, acting jointly by majority vote, is the public  
18 employer and employer representative.

19 (3) For court reporters employed by all other judicial  
20 circuits, a group consisting of the chief judges of those  
21 circuits, acting jointly by majority vote, is the public  
22 employer and employer representative.

23 (p) "Security employee" means an employee who is  
24 responsible for the supervision and control of inmates at  
25 correctional facilities. The term also includes other  
26 non-security employees in bargaining units having the majority

1 of employees being responsible for the supervision and control  
2 of inmates at correctional facilities.

3 (q) "Short-term employee" means an employee who is employed  
4 for less than 2 consecutive calendar quarters during a calendar  
5 year and who does not have a reasonable assurance that he or  
6 she will be rehired by the same employer for the same service  
7 in a subsequent calendar year.

8 (q-5) "State agency" means an agency directly responsible  
9 to the Governor, as defined in Section 3.1 of the Executive  
10 Reorganization Implementation Act, and the Illinois Commerce  
11 Commission, the Illinois Workers' Compensation Commission, the  
12 Civil Service Commission, the Pollution Control Board, the  
13 Illinois Racing Board, and the Department of State Police Merit  
14 Board.

15 (r) "Supervisor" is:

16 (1) An employee whose principal work is substantially  
17 different from that of his or her subordinates and who has  
18 authority, in the interest of the employer, to hire,  
19 transfer, suspend, lay off, recall, promote, discharge,  
20 direct, reward, or discipline employees, to adjust their  
21 grievances, or to effectively recommend any of those  
22 actions, if the exercise of that authority is not of a  
23 merely routine or clerical nature, but requires the  
24 consistent use of independent judgment. Except with  
25 respect to police employment, the term "supervisor"  
26 includes only those individuals who devote a preponderance

1 of their employment time to exercising that authority,  
2 State supervisors notwithstanding. Nothing in this  
3 definition prohibits an individual from also meeting the  
4 definition of "managerial employee" under subsection (j)  
5 of this Section. In addition, in determining supervisory  
6 status in police employment, rank shall not be  
7 determinative. The Board shall consider, as evidence of  
8 bargaining unit inclusion or exclusion, the common law  
9 enforcement policies and relationships between police  
10 officer ranks and certification under applicable civil  
11 service law, ordinances, personnel codes, or Division 2.1  
12 of Article 10 of the Illinois Municipal Code, but these  
13 factors shall not be the sole or predominant factors  
14 considered by the Board in determining police supervisory  
15 status.

16 Notwithstanding the provisions of the preceding  
17 paragraph, in determining supervisory status in fire  
18 fighter employment, no fire fighter shall be excluded as a  
19 supervisor who has established representation rights under  
20 Section 9 of this Act. Further, in new fire fighter units,  
21 employees shall consist of fire fighters of the rank of  
22 company officer and below. If a company officer otherwise  
23 qualifies as a supervisor under the preceding paragraph,  
24 however, he or she shall not be included in the fire  
25 fighter unit. If there is no rank between that of chief and  
26 the highest company officer, the employer may designate a

1 position on each shift as a Shift Commander, and the  
2 persons occupying those positions shall be supervisors.  
3 All other ranks above that of company officer shall be  
4 supervisors.

5 (2) With respect only to State employees in positions  
6 under the jurisdiction of the Attorney General, Secretary  
7 of State, Comptroller, or Treasurer (i) that were certified  
8 in a bargaining unit on or after December 2, 2008, (ii) for  
9 which a petition is filed with the Illinois Public Labor  
10 Relations Board on or after April 5, 2013 (the effective  
11 date of Public Act 97-1172), or (iii) for which a petition  
12 is pending before the Illinois Public Labor Relations Board  
13 on that date, an employee who qualifies as a supervisor  
14 under (A) Section 152 of the National Labor Relations Act  
15 and (B) orders of the National Labor Relations Board  
16 interpreting that provision or decisions of courts  
17 reviewing decisions of the National Labor Relations Board.

18 (s)(1) "Unit" means a class of jobs or positions that are  
19 held by employees whose collective interests may suitably be  
20 represented by a labor organization for collective bargaining.  
21 Except with respect to non-State fire fighters and paramedics  
22 employed by fire departments and fire protection districts,  
23 non-State peace officers, and peace officers in the Department  
24 of State Police, a bargaining unit determined by the Board  
25 shall not include both employees and supervisors, or  
26 supervisors only, except as provided in paragraph (2) of this

1 subsection (s) and except for bargaining units in existence on  
2 July 1, 1984 (the effective date of this Act). With respect to  
3 non-State fire fighters and paramedics employed by fire  
4 departments and fire protection districts, non-State peace  
5 officers, and peace officers in the Department of State Police,  
6 a bargaining unit determined by the Board shall not include  
7 both supervisors and nonsupervisors, or supervisors only,  
8 except as provided in paragraph (2) of this subsection (s) and  
9 except for bargaining units in existence on January 1, 1986  
10 (the effective date of this amendatory Act of 1985). A  
11 bargaining unit determined by the Board to contain peace  
12 officers shall contain no employees other than peace officers  
13 unless otherwise agreed to by the employer and the labor  
14 organization or labor organizations involved. Notwithstanding  
15 any other provision of this Act, a bargaining unit, including a  
16 historical bargaining unit, containing sworn peace officers of  
17 the Department of Natural Resources (formerly designated the  
18 Department of Conservation) shall contain no employees other  
19 than such sworn peace officers upon the effective date of this  
20 amendatory Act of 1990 or upon the expiration date of any  
21 collective bargaining agreement in effect upon the effective  
22 date of this amendatory Act of 1990 covering both such sworn  
23 peace officers and other employees.

24 (2) Notwithstanding the exclusion of supervisors from  
25 bargaining units as provided in paragraph (1) of this  
26 subsection (s), a public employer may agree to permit its

1 supervisory employees to form bargaining units and may bargain  
2 with those units. This Act shall apply if the public employer  
3 chooses to bargain under this subsection.

4 (3) Public employees who are court reporters, as defined in  
5 the Court Reporters Act, shall be divided into 3 units for  
6 collective bargaining purposes. One unit shall be court  
7 reporters employed by the Cook County Judicial Circuit; one  
8 unit shall be court reporters employed by the 12th, 18th, 19th,  
9 and, on and after December 4, 2006, the 22nd judicial circuits;  
10 and one unit shall be court reporters employed by all other  
11 judicial circuits.

12 (t) "Active petition for certification in a bargaining  
13 unit" means a petition for certification filed with the Board  
14 under one of the following case numbers: S-RC-11-110;  
15 S-RC-11-098; S-UC-11-080; S-RC-11-086; S-RC-11-074;  
16 S-RC-11-076; S-RC-11-078; S-UC-11-052; S-UC-11-054;  
17 S-RC-11-062; S-RC-11-060; S-RC-11-042; S-RC-11-014;  
18 S-RC-11-016; S-RC-11-020; S-RC-11-030; S-RC-11-004;  
19 S-RC-10-244; S-RC-10-228; S-RC-10-222; S-RC-10-220;  
20 S-RC-10-214; S-RC-10-196; S-RC-10-194; S-RC-10-178;  
21 S-RC-10-176; S-RC-10-162; S-RC-10-156; S-RC-10-088;  
22 S-RC-10-074; S-RC-10-076; S-RC-10-078; S-RC-10-060;  
23 S-RC-10-070; S-RC-10-044; S-RC-10-038; S-RC-10-040;  
24 S-RC-10-042; S-RC-10-018; S-RC-10-024; S-RC-10-004;  
25 S-RC-10-006; S-RC-10-008; S-RC-10-010; S-RC-10-012;  
26 S-RC-09-202; S-RC-09-182; S-RC-09-180; S-RC-09-156;

1 S-UC-09-196; S-UC-09-182; S-RC-08-130; S-RC-07-110; or  
2 S-RC-07-100.

3 (Source: P.A. 97-586, eff. 8-26-11; 97-1158, eff. 1-29-13;  
4 97-1172, eff. 4-5-13; 98-100, eff. 7-19-13; 98-1004, eff.  
5 8-18-14.)

6 Section 99. Effective date. This Act takes effect upon  
7 becoming law.